IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 6650 of 2005
Date of decision : August 02, 2007

Smt. Shinder Kaur,

.....Petitioner

v.

The State of Punjab & others,

.....Respondents

CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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Present : None for the petitioner.

Mr.N.D.S.Mann, Addl.A.G.Punjab.

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA,J

The petitioner has approached this Court for the issuance of a writ in the nature of mandamus, directing respondent No.3 to forthwith forward the land reference, filed under Section 18 of the Land Acquisition Act, 1894 (for short herein after referred to as "the Act"), to the District Judge, Patiala.

It is not denied that the petitioner's land was acquired on 14.3.1988 and an award in respect thereof was pronounced on 25.1.1989. It is also not denied by the respondents that the petitioner filed a reference, under Section 18 of the Act, expressing dis-satisfaction with the

compensation, offered by the Land Acquisition Collector. It is, however, asserted by the respondents that the reference, filed under Section 18 of the Act, was filed on 11.5.1998, and as it was barred by limitation, the Collector did not forward the reference to the District Judge.

It is averred by the petitioner that even if the reference was barred by limitation, the Collector was required to forward the same to the District Judge with his observation that the reference was time barred. The Collector was duty bound to forward the reference to the District Judge. His failure to do so would necessitate the issuance of a writ of mandamus directing him to comply with the statutory duty and obligation, as enjoined upon him, by the Act.

Counsel for the respondents, on the other hand, contends that as the reference was barred by limitation, the Collector need not have passed any order in respect thereof and, thus, rightly declined to forward the reference to the District Judge.

We have heard counsel for the respondents and perused the paper book.

Upon receipt of a reference, filed under Section 18 of the Act, expressing dis-satisfaction with the amount of compensation awarded, the Land Acquisition Collector is duty bound to obey the mandate of Section 18 of the Act, and forward the reference to the concerned District Judge. The Collector cannot keep a reference pending and must, in obedience to the mandate of the Act, forward the reference forthwith to the reference Court i.e the concerned District Judge. His inaction would invite the issuance of a writ of mandamus, calling upon him to perform his statutory obligations under the Act and forward the reference to the District Judge. Where it

appears to the Collector that the reference is time barred, he may either proceed to reject the same, leaving the party to seek its remedy, in accordance with law, or forward the reference to the District Judge concerned by appending a note that the reference is barred by limitation. The Collector cannot sit over a reference for years together and refuse to reject or forward it. Thus, in our considered opinion, the Land Acquisition Collector was remiss in the performance of his statutory duty i.e to pass orders on the reference, made by the petitioner, in terms, explained herein before.

In the present case, the award was pronounced on 25.1.1989, and for reasons that are not clear, the petitioner received compensation on 21.4.1998. She filed the reference, under Section 18 of the Act, on 11.5.1998. The Collector was, therefore, duty bound to forward the reference to the District Judge.

Consequently, we accept the writ petition and issue a writ of mandamus directing the Land Acquisition Collector, Patiala to forthwith forward the reference, filed by the petitioner, on 11.5.1998, to the District Judge, Patiala, within four weeks from the receipt of a certified copy of this order. The respondent-State of Punjab would, however, be at liberty to raise a plea, before the District Judge, that the reference application is barred by limitation.

(RAJIVE BHALLA)
JUDGE

(P. SATHASIVAM)
JUDGE

August 02, 2007.

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